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GODFRIED R. AKORLI,  
BAYER CHEMICALS CORPORATION  
PATENTS AND LICENSING  
100 BAYER ROAD  
PITTSBURGH PA 15205

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**JAN 10 2006**

**OFFICE OF PETITIONS**

In re Application of :  
Klipper et al. : DECISION ON PETITION  
Application No. 10/687,780 :  
Filed: 17 October, 2003 :  
Atty Docket No. MO5664D/LeA 33, :

This is a decision on the petition filed on 9 September, 2005, under 37 CFR 1.137(b),<sup>1</sup> to revive the above-identified application.

The petition is granted.

The application became abandoned on 4 March, 2005, for failure to timely file a response to the final Office action mailed on 3 December, 2004, which set a three (3) month shortened statutory

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<sup>1</sup> Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 23 June, 2005.

Petitioner has submitted a Request for Continued Examination (RCE), authorization to charge the required fee, and an amendment as the submission required under 37 CFR 1.114.

The RCE fee will be charged to counsel's deposit account, No. 50-2527, as authorized on the transmittal form.

The change of correspondence address filed on 9 September, 2005, cannot be accepted because it was not signed by an attorney of record.<sup>2</sup> Further, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This application is being referred to Technology Center Art Unit 1713 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions

cc: Jennifer R. Seng  
LANXESS Corporation, Law & Intellectual Property Department  
111 RIDC Park West Drive  
Pittsburgh PA 15275-1112

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<sup>2</sup> See MPEP §§ 601.03 and 405.